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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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08/354,177 12/13/94 CHILDRESS

B 41573

13M1/1213

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EXAMINER

FRAN LIENL

ART UNIT

PAPER NUMBER

1302

13

DATE MAILED:

12/13/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 9/19/96

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-29 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-29 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

-- SEE OFFICE ACTION ON THE FOLLOWING PAGES --

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1. The 103 rejection of claims 1-29 over the Ferguson references is hereby withdrawn.
2. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson (4770731) in view Elston and Chum et al.

Ferguson discloses a patch to be used with a heat shrinkable bag. The patch is heat shrinkable with the bag to reduce the tendency of delaminating. The patch comprises of two outer layers and two inner layers. The outer layers comprise 87% by weight of linear low density polyethylene, ethylene-vinyl acetate, pigments and additives and the inner layers comprise ethylene-vinyl acetate copolymer. The linear low density polyethylene has a density of .900 to .935 grams per cubic centimeter. (See col. 3 lines 16-30),

Ferguson does not disclose the patch and the bag is made of long chain branched homogenous ethylene alpha olefin copolymer.

Elston teach homogeneous copolymer of narrow molecular weight distribution exhibit a reduced haze level in extruded film, higher impact strength, reduced tendency towards delamination in extruded articles and better balance of physical properties in the machine and transverse direction of extruded film when compared with conventional heterogeneous copolymers (see col. 2 lines 29-35).

Chum et al. teach the unique characteristic of the homogeneously branched, substantially linear ethylene polymers is a highly unexpected flow property where the I10/I2 value of the polymer is essentially independent of the polydispersity index of the polymer (see col. 5 lines 41-45).

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It would have been obvious for one skilled in the art to substitute the homogeneous copolymer as taught by Elston for the LLDPE in the Ferguson patch and to also use it in the bag to obtain the properties described by Elston. The properties of the homogeneous copolymer are very favorable toward the goal of Ferguson in preventing or reducing the likelihood that a bone will completely puncture and rupture the bag and patch combination. It would also have been obvious for the homogenous copolymer to be homogeneous branched copolymer if the property as described by Chum et al. is desirable. Applicant is not the first to use and recognize the advantage of homogeneous copolymer. The use of an adhesive to adhere the patch to the bag as claimed in claim 2 is conventional and would have been obvious to one skilled in the art. The amount of shrink claimed in claims 8-10 is an obvious controlled parameter. It would have been obvious to have the patch shrinking at rate which is compatible with the bag to obtain the most optimum result. As to the limitation of putting additional patches as claimed in claim 26, it would have been obvious for one to do so if it is desired to increase the strength of the patched area of the bag.

3. Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Tran whose telephone number is (703) 308-1868. The examiner can normally be reached on Mon-Fri from 6:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Esther Kepplinger, can be reached on (703) 308-3229. The fax phone number for this Group is (703) 305-3601.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0648.

December 6, 1996



Lien Tran
Patent Examiner
Group 1300